

COMMONWEALTH OF KENTUCKY  
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

APPLICATION OF CUMBERLAND CELLULAR	)	
PARTNERSHIP FOR ISSUANCE OF A	)	
CERTIFICATE OF PUBLIC CONVENIENCE AND	)	
NECESSITY TO CONSTRUCT A CELLULAR CELL	)	CASE NO. 93-067
SITE (LAKE CUMBERLAND) IN RURAL SERVICE	)	
AREA #5 (WAYNE) OF THE COMMONWEALTH OF	)	
KENTUCKY	)	

O R D E R

On March 1, 1993, Cumberland Cellular Partnership ("Cumberland Cellular") filed an application seeking a Certificate of Public Convenience and Necessity to construct and operate a cellular radio telecommunications system for the Rural Service Area No. 5 ("RSA No. 5"). RSA No. 5 includes Barren, Monroe, Metcalfe, Adair, Cumberland, Russell, Clinton, Wayne, McCreary and Hart counties in Kentucky. Cumberland Cellular has requested authorization to construct a cell site in Wayne County.

Cumberland Cellular acquired the operating authority to provide cellular service in RSA No. 5 from GTE Mobilnet Incorporated in Case No. 91-180.<sup>1</sup> GTE Mobilnet Incorporated was

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<sup>1</sup> Case No. 91-180, The Joint Application of GTE Mobilnet Incorporated and Cumberland Cellular Partnership for Approval of the Transfer of Ownership and Control of the Certificate of Public Convenience and Necessity Granted to GTE Mobilnet Incorporated in Case No. 90-306 to Cumberland Cellular Partnership.

granted authority to operate a cellular radio telecommunications system in RSA No. 5 in Case No. 90-306.<sup>2</sup>

The proposed repeater cell site consists of a 400-foot or less guyed antenna tower to be located on Route 3, Box 217AA, Monticello, Kentucky ("the Lake Cumberland cell site"). The coordinates for the Lake Cumberland Cell site are North Latitude 36° 53' 50" by West Longitude 84° 57' 27".

Cumberland Cellular has provided information regarding the structure of the tower, safety measures, and antenna design criteria for the Lake Cumberland cell site. Based upon the application, the tower and foundation design appears to meet the criteria of the Building Officials and Code Administrators International, Inc. National Building Code with reference to earthquakes, winds, and tornadoes.

Pursuant to KRS 100.324(1), the Lake Cumberland cell site's construction is exempt from local zoning ordinances. Cumberland Cellular has filed applications with and received approvals from the Federal Communications Commission and the Federal Aviation Administration. Cumberland Cellular has filed an application with the Kentucky Airport Zoning Commission ("KAZC") which is still pending.

Cumberland Cellular has filed notices verifying that each property owner and/or resident within 500 feet of the Lake

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<sup>2</sup> Case No. 90-306, Application of GTE Mobilnet Incorporated for Issuance of a Certificate of Public Convenience and Necessity to Provide Domestic Public Cellular Telecommunications Service to the Public in Rural Service Area #5 (Barren) of the Commonwealth of Kentucky.

Cumberland cell site has been notified of the pending construction. The notice solicited any comments and informed the property owners and/or residents of their right to intervene. To date, no intervention requests have been received.

Pursuant to KRS 278.280, the Commission is required to determine proper practices to be observed when it finds, upon complaint or on its own motion, that the facilities of any utility subject to its jurisdiction are unreasonable, unsafe, improper, or insufficient. To assist the Commission in its efforts to comply with this mandate, Cumberland Cellular should notify the Commission if it does not use this antenna tower to provide cellular radio telecommunications services in the manner set out in its application and this Order. Upon receipt of such notice, the Commission may, on its own motion, institute proceedings to consider the proper practices, including removal of the unused antenna tower, which should be observed by Cumberland Cellular.

The Commission, having considered the evidence of record and being otherwise sufficiently advised, finds that Cumberland Cellular should be granted a Certificate of Public Convenience and Necessity to construct and operate the proposed repeater cell site in RSA No. 5 under its approved tariff.

IT IS THEREFORE ORDERED that:

1. Cumberland Cellular be and it hereby is granted a Certificate of Public Convenience and Necessity to construct and operate the proposed repeater cell site consisting of a 400-foot or less guyed antenna tower to be located on Route 3, Box 217AA,


Monticello, Wayne County, Kentucky. The coordinates for the proposed cell site are North Latitude 36° 53' 50" by West Longitude 84° 57' 27".

2. Cumberland Cellular shall file a copy of the final decision regarding its pending KAZC application for the Lake Cumberland cell site within 10 days of receiving this decision.


3. Cumberland Cellular shall immediately notify the Commission in writing, if, after the antenna tower is built and utility service is commenced, the tower is not used for a period of 3 months in the manner authorized by this Order.

Done at Frankfort, Kentucky, this 19th day of April, 1993.


PUBLIC SERVICE COMMISSION

  
Chairman

  
Vice Chairman

  
Commissioner

ATTEST:

  
Executive Director